

# HOUSE BILL 627

Q7  
HB 312/10 – W&M

11r0653

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By: **Delegates Krebs, Afzali, Boteler, Dwyer, Eckardt, Elliott, Frank, George, Glass, Haddaway–Riccio, Hogan, Hough, Impallaria, Kach, McComas, McDonough, McMillan, Minnick, Murphy, Parrott, Schuh, Schulz, Sophocleus, Stocksedale, Szeliga, Vitale, and Wood**

Introduced and read first time: February 9, 2011

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Death Taxes – Family Property Protection Act**

3 FOR the purpose of repealing a certain limit on the unified credit used for determining  
4 the Maryland estate tax; repealing a requirement that the Maryland estate tax  
5 shall be in effect even if the federal estate tax is not in effect on the date of the  
6 decedent’s death; repealing a requirement that the Maryland estate tax be  
7 determined without regard to a certain deduction allowed under the federal  
8 estate tax; providing for the application of this Act; and generally relating to the  
9 Maryland estate tax.

10 BY repealing and reenacting, without amendments,  
11 Article – Tax – General  
12 Section 7–309(a)  
13 Annotated Code of Maryland  
14 (2010 Replacement Volume)

15 BY repealing and reenacting, with amendments,  
16 Article – Tax – General  
17 Section 7–309(b)(1), (2), and (3)  
18 Annotated Code of Maryland  
19 (2010 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Tax – General**

23 7–309.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Notwithstanding an Act of Congress that repeals or reduces the federal  
2 credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in  
3 effect before the passage of the Act of Congress shall apply with respect to a decedent  
4 who dies after the effective date of the Act of Congress so as to continue the Maryland  
5 estate tax in force without reduction in the same manner as if the federal credit had  
6 not been repealed or reduced.

7 (b) (1) Except as provided in paragraphs (2) through (7) of this subsection,  
8 after the effective date of an Act of Congress described in subsection (a) of this section,  
9 the Maryland estate tax shall be determined using:

10 (i) the federal credit allowable by § 2011 of the Internal  
11 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant  
12 to the Act of Congress; and

13 (ii) other provisions of federal estate tax law, **INCLUDING THE**  
14 **APPLICABLE UNIFIED CREDIT ALLOWED AGAINST THE FEDERAL ESTATE TAX**, as  
15 in effect on the date of the decedent's death.

16 (2) [Except as provided in paragraphs (3) through (7) of this  
17 subsection, if] **IF** the federal estate tax is not in effect on the date of the decedent's  
18 death, the Maryland estate tax [shall be determined using:

19 (i) the federal credit allowable by § 2011 of the Internal  
20 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant  
21 to the Act of Congress; and

22 (ii) other provisions of federal estate tax law as in effect on the  
23 date immediately preceding the effective date of the repeal of the federal estate tax] **IS**  
24 **NOT IMPOSED ON THE TRANSFER OF THE ESTATE OF THE DECEDENT.**

25 (3) [(i) Notwithstanding any increase in the unified credit allowed  
26 against the federal estate tax for decedents dying after 2003, the unified credit used  
27 for determining the Maryland estate tax may not exceed the applicable credit amount  
28 corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of §  
29 2010(c) of the Internal Revenue Code.

30 (ii) The Maryland estate tax shall be determined without regard  
31 to any deduction for State death taxes allowed under § 2058 of the Internal Revenue  
32 Code.

33 (iii)] Unless the federal credit allowable by § 2011 of the Internal  
34 Revenue Code is in effect on the date of the decedent's death, the federal credit used to  
35 determine the Maryland estate tax may not exceed 16% of the amount by which the  
36 decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds

1 **[\$1,000,000] THE APPLICABLE EXCLUSION AMOUNT CORRESPONDING TO THE**  
2 **APPLICABLE UNIFIED CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 2011, and shall be applicable to decedents dying after December 31, 2010.